

BRETT J. WILLIAMSON (SB # 145235)
(bwilliamson@omm.com)
CAMERON W. WESTIN (SB # 290999)
(cwestin@omm.com)
O'MELVENY & MYERS LLP
610 Newport Center Drive, 17th Floor
Newport Beach, California 92660
Telephone: (949) 823-6900
Facsimile: (949) 823-6904

Attorneys for *Amicus Curiae* HULU, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Canon, Inc.

Plaintiff,

v.

TCL Electronics Holdings, Ltd., et al.

Defendants.

Case No. 3:20-mc-80079-JCS

**NOTICE OF MOTION AND
MOTION FOR LEAVE TO FILE
*AMICUS BRIEF BY AMICUS
CURIAE* HULU, LLC**

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE THAT Hulu, LLC (“Hulu”) hereby moves the Court for leave to submit an *amicus curiae* brief regarding Non-Party Roku, Inc.’s Motion To Modify And/Or Quash Plaintiff Canon Inc.’s Subpoena and For A Protective Order To Prevent Remote Source Code Review (ECF No. 1) (hereinafter “Roku’s Motion”). The proposed *amicus curiae* brief is attached as Exhibit A, along with accompanying declarations and exhibits.

RELIEF REQUESTED

Hulu respectfully requests this Court grant leave to file the attached *amicus curiae* brief.

ARGUMENT

I. STANDARD FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF

The Ninth Circuit has held that a district court has broad discretion in the appointment of *amicus curiae*. *California v. U.S. Dep’t of Labor*, No. 2:13-cv-02069-KJM-DAD, 2014 WL 12691095, at *1 (E.D. Cal. Jan. 14, 2014) (citing *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472, 487 (1995)). “District courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved or if the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Ctr. for Biological Diversity v. Jewell*, No. C 13-1749 PSG, 2013 WL 4127790, at *4 (N.D. Cal. Aug. 9, 2013) (quoting *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005)). “There are no strict prerequisites that must be established prior to qualifying for amicus status; an individual seeking to appear as *amicus* must merely make a showing that his participation is useful to or otherwise desirable to the court.” *Infineon Techs. N. Am. Corp. v. Mosaid Techs., Inc.*, No. C 02-5772 JFRS, 2006 WL 3050849, at *3 (N.D. Cal. Oct. 23, 2006) (quoting *In re Roxford Foods*

1 *Litig.*, 790 F. Supp. 987, 997 (E.D. Cal. 1991)).

2 **II. STATEMENT OF IDENTITY AND INTEREST OF *AMICUS CURIAE***

3 Hulu, headquartered in Santa Monica, California, is a provider of both live
4 and on-demand streaming video. As described further in Hulu’s proposed *amicus*
5 brief, Hulu’s streaming video-on-demand (“SVOD”) and Live subscription-based
6 services are available through platforms of numerous device makers, including
7 Roku’s devices.

8 Hulu is not an interested party in the underlying litigation brought by Canon,
9 Inc. (“Canon”) in the Eastern District of Texas as *Canon Inc. v. TCL Elecs.*
10 *Holdings Ltd.*, Case No. 2:18-cv-00546-JRG, nor is Hulu’s source code the subject
11 of Roku’s Motion. As described in Roku’s Motion (*see* ECF No. 1 at 2) and further
12 in Hulu’s *amicus* brief, Hulu asks the Court to exercise its discretion to consider the
13 ramifications of exposing Roku’s source code to malicious actors on Hulu’s own
14 efforts to secure its streaming content and services, as well as the ramifications of
15 imposing remote review of source code on technology companies that have or will
16 be required to make their own source code available for inspection in litigation.
17 Hulu, by and through its undersigned counsel, seeks leave to submit this *amicus*
18 brief so that the Court may consider the implications of forcing remote review of
19 source code to Hulu and other technology companies.

20 **CONCLUSION**

21 For the reasons set forth herein, Hulu respectfully requests that the Court
22 grant this Motion for Leave to File an *Amicus Curiae* Brief.

1 Dated: May 13, 2020

Respectfully submitted,

2 O'MELVENY & MYERS LLP

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4 By /s/ Brett J. Williamson

5 Brett J. Williamson (SB # 145235)
6 bwilliamson@omm.com
7 Cameron W. Westin (SB # 290999)
8 cwestin@omm.com
9 O'MELVENY & MYERS LLP
610 Newport Center Drive
10 17th Floor
Newport Beach, California 92660
Telephone: (949) 823-6900
Facsimile: (949) 823-6904

11 Attorneys for *Amicus Curiae*
Hulu, LLC